



# LOUISIANA CURE

CITIZENS UNITED FOR REHABILITATION OF ERRANTS



**CURE is a membership organization of families of prisoners, prisoners, former prisoners and other concerned citizens. CURE's two goals are to use prisons only for those who need to be in them and for those who need to be in them, to provide them all the rehabilitative opportunities they need to turn their lives around.**

## PUBLICATION NOTICE

This newsletter is a publication of Louisiana CURE. Louisiana CURE is a non-profit organization whose goal is to reduce crime through criminal justice reform.

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State Louisiana CURE meetings are held at the Bishop Tracy Center at 1800 Acadian Thruway in Baton Rouge the second Tuesday of each month from 7-9 p.m. Both members and non-members are welcome at all meetings.

Memberships and inquiries can be sent to:

**Louisiana CURE**  
**P.O. Box 181**  
**Baton Rouge, LA 70821**

CURE is a 501(c)3 organization

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**CURE** is a volunteer organization. Letters are answered by volunteers. We appreciate the letters you send and do read them. We may not be able to answer them all, but we are interested in hearing from you and will do our best to address your issues and concerns, either by writing back, through our newsletter, or by taking other action.

**Please do not send legal documents to CURE. CURE does not offer legal services.**

## Developing a New Attitude

Checo W. Yancy, CURE President

*The one thing I am convinced of and that is that God has a plan and purpose for every life.*

Well, the legislature is finally over, thousand of bills were filed and not much changed. We have tried to legislate our way of crime for the last 30 years and Louisiana has become the number one in incarceration, spending almost a billion dollars on corrections. Even the experts are beginning to make public statements, saying, "What we are currently doing, is not working and we need to look at other alternatives".

An excerpt from the article on [2theadvocate.com](http://2theadvocate.com): Russell Jones, the Jesse N. Stone Professor of Law at Southern University, said Louisiana's pockets of poverty and lack of achievement in public education are contributing to the state's prison population. "We need to do a better job," Jones said. "We're at the bottom of education in terms of graduating students. But we're at the top in terms of incarceration. "It's just basic common sense. I don't believe we can continue to incarcerate people at this rate. We're going to hit a tipping point," Jones said.

Louisiana CURE was kept very active this session, lots of bills to review, monitor, and then try to decide which bills to support or oppose. I would like to take this time to personally thank each member and supporter that made time to help out, to the Department of Corrections that shared valuable information To all of the legal professionals and finally to our confident George Steimel for answering our crazy questions concerning the bills. If I missed anyone, forgive me, thank you to. Now it's time to get back to work so we can get prepared for the next session.

I read a statement in a Daily Devotional the other day and it made sense. We need to become a spiritual society again. Rehabilitation means the putting back of the whole human race into the relationship God designed it to be in. I see that as the churches getting involved, building up the body of Christ, some will surely say, they did the crime, let them do the time, where is the forgiveness? I committed a serious crime over 25 years ago, I was punished, rightfully so. Today, I do my best to give back to society, so people will not remember me for the worst thing I've done.

### **Developing a New Attitude**

Checo W. Yancy, CURE President  
(cont)

Probation does not make a parolee do the right thing no more than the bible make a Christian do right.

## **EDERLY PRISONERS RECEIVE GOOD CARE:**

June 30, 2008

According to the U.S. Department of Justice, Louisiana has 846 prison inmates per 100,000 people. That makes us No. 1 in the nation for the number of residents serving time. Most people know that because the media uses it frequently in a variety of contexts.

Not as well known is the fact that more inmates die of illnesses behind bars in Louisiana than anywhere else in the U.S. A Department of Justice study shows that during a four-year period, Louisiana recorded 388 deaths from medical conditions per 100,000 inmates. This by no means indicates that the inmates are getting poor health care. In fact, Louisiana has a strong investment in health care for prisoners.

Also, the high mortality rate stems in part from the large number of elderly people in our prisons. Our courts do not hesitate to hand down long sentences to convicted criminals. The average sentence is nearly 45 years.

Dr. Raman Singh, medical director for the state penitentiary at Angola, said recently that the Justice Department study "tells me we have one of the heaviest burdens in the nation because we are caring for the sickest and most elderly population in the nation."

There is no denying the high cost of medical care for prisoners. In the last fiscal year, the tab was nearly \$41 million. The budget is spent on prescriptions, health care staff salaries and equipment. At Angola, there is a nationally recognized hospice program for terminally ill inmates. Wade Correctional Center near Shreveport features a 50-bed skilled nursing unit. Dixon Correctional Institute in Jackson has a dialysis clinic for those with kidney failure. By the end of 2008, Elayn Hunt Correctional Center in St. Gabriel will open a skilled nursing facility.

The corrections department also conducts annual screening of inmates over 50 for colon and prostate cancer, heart disease, diabetes and high cholesterol.

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We must choose to do right, making positive decisions when only God sees us. Because of my faith and what God has already done for me, I choose to do the right thing. This is not just a thought. When God changes a person, they are changed. No, I am not for opening the prison doors, but why not look at rehabilitation. When a person changes; he deserve an opportunity to be a productive citizen and a taxpayer. Change will only happen when we understand what God did for us.

The bible will tell you of his character. He is not the author of confusion; He is a God of peace and love.

Secretary LeBlanc of the Department of Corrections is very high on re-entry, getting people to understand change. It is a proven fact when a person changes, it will bring about change.

Remember, the ongoing eTc Campaign (Equitable Telephone Charges) is working to improve and cut the high cost of the prison telephone systems. You can help by letting your Public Service Commissioner or local legislator know how unfair it is for you to have pay such high costs to talk with your loved one.

**We cannot be hindered as long as we continue to work as a team.**

There is an alternative to providing such care for the state's older inmates. Dr. Katharine Rathbun, a preventive medicine and family practice physician at Ochsner Clinic in Baton Rouge, says a number of states practice what's called "compassionate release." In Missouri, where she once served as medical director for a prison, Rathbun says inmates were released when it was apparent they were going to die. The family - if there was one with sufficient resources - or the county hospital, had to provide final care. In many cases, "compassionate release" simply means tossing a prisoner out on the streets to die.

States must decide whether the important thing is keeping the amount spent on sick, elderly prisoners at a low level, or treating them in a professional and humane fashion in their final days.

Louisiana chooses the latter. That helps to validate our long-held conviction that, despite the state's many shortcomings, our citizens are among the most caring in the nation.

## LOUISIANA LEGISLATURE REGULAR SESSION 2008

This paper is being printed to clarify bills that have been sent to CURE for more explanation. If inmates still have questions about whether a certain bill affects them, it is best for them to speak with their classification officer.

**HB 46 / Mills/ ACT 67:** Reorganizes the controlled substances in Schedule I, II, III and V to make them consistent with the federal designations by DEA. Effective August 15, 2008

**HB 642 / Schroder / ACT 33:** Provides that whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. The law amended the maximum life sentence to a maximum sentence of 99 years. The following crimes are included (when the victim is under the age of 13): (1) sexual battery (2) oral sexual battery (3) second degree oral sexual battery (4) aggravated incest (5) pornography involving juveniles (6) molestation of a juvenile.

**SB 114 / Martiny/ ACT 2:** Provides with respect to salary, powers, duties and responsibilities of employees and related matters under the State Public Defender law.

**HB 126 / Baldone / ACT 70:** When an inmate is within three months of release, a registered victim may contact the DOC to request a current photo of the inmate which should be provided at least ten days before the inmate's release.

**HB 121 / Baldone / ACT 30:** Increases good time from thirty to thirty-five days for those serving a term for consecutive sentences. The extra good time is not in effect for violent or sex offenders.

**HB 268 / E. Guillory / ACT 31:** Removes the exceptions for drug offenders to participate in Work Release.

**HB 122 / Morrell / Failed:** This bill, which would have affected those juvenile convicted to life at the age of 15 or 16 years, failed with 49 votes for and 48 votes against. This bill needs a total of 53 yes votes to pass. This bill has failed for the last three sessions but will likely come up again next session.

**HB 120 / Wooton / ACT 572:** To amend and reenact R.S. 15:833(A),(B)(1) and (3) and (C) and to enact R.S. 15:833(D) and 833.2 relative to the temporary release of inmates; to provide for the release of inmates for medical care under certain circumstances; to provide for temporary secured release of inmates; to provide for applicability and to provide for related matters.

**833(A)**“The secretary of the DOC may authorize visits and correspondence under reasonable conditions between inmates and approved friends, relatives, and other persons. . .**(B)(1)** The secretary may also authorize furloughs to deserving inmates of any adult correctional institution. This type of furlough is intended to serve as a rehabilitation tool to assist the inmate in maintaining family relationships during the period of his incarceration. A furlough, as provided herein, is not to be considered a reprieve and therefore will not extend the inmate's sentence.”

**833(B)(3)**“No inmate serving a sentence for conviction of first degree murder, second degree murder, attempted murder, aggravated rape, attempted rape, forcible rape, aggravated kidnapping, aggravated arson, armed robbery, attempted armed robbery, or producing, manufacturing, distributing, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance, nor any inmate sentenced as a habitual offender shall be released from the institution to which he is assigned except under security escort and then only in the following circumstances: Treatment for serious illness; visits with dying family members; funerals of family members; participation in programs at other correctional institutions; speaking assignments; work details; court appearance; participation in charity boxing matches; performances of any organized vocal or instrumental group at any civic or charitable function; or religious services. **(C)**However, notwithstanding any provisions of law to the contrary, inmates assigned to work duties at the governor's mansion and inmates within six months of discharge shall be eligible for furloughs and temporary releases.”

**“833.2 Temporary release of inmate for limited purposes.** **A.** Notwithstanding any other provisions of law to the contrary, the secretary may authorize the temporary release of any inmate, except an inmate sentenced to death, for palliative or medical care when an inmate is diagnosed with a terminal illness, and death is expected within sixty days or when an inmate is to be confined to an acute care hospital or nursing home with a condition that totally prevents mobility, including but not limited to prolonged coma or mechanical ventilation. **B.** Notwithstanding any other provision of law to the contrary, the secretary may authorize the temporary release of any inmate, except an inmate sentenced to death, serving a sentence for conviction of first degree murder, second degree murder, attempted murder, aggravated rape, attempted aggravated rape, forcible rape, aggravated kidnapping, aggravated arson, armed robbery, attempted armed robbery or producing, manufacturing, distributing or dispensing a controlled dangerous substance, or any inmate sentenced as a habitual offender under R.S. 15:529.I, when that inmate is confined to an acute care hospital or nursing home with a condition that totally prevents mobility, including but not limited to prolonged coma or mechanical ventilation. **C.** Any inmate authorized for temporary release pursuant to the provisions of this Section who is released, discharged, or who absconds from an acute care hospital or nursing home shall have such temporary release immediately rescinded.

This bill was signed by the Governor and passed the Legislature unanimously.

*(This page prepared by Kathy Gess)*

**La. considers sex offender laws Health  
department studies after-prison treatment options,  
By Melinda Deslatte, Associated Press, July 7,2008**

Louisiana is considering joining more than a dozen other states that allow the confinement of sex offenders beyond their prison sentences, by involuntarily placing them in mental-health facilities for treatment. The laws have proven popular, with supporters saying they help protect the public from violent sex offenders who may commit new crimes when they leave jail and give needed treatment to offenders who likely are not getting it behind bars. Critics say the laws are a backdoor way to keep sex offenders locked up longer, violate their constitutional rights and endanger others seeking psychiatric treatment in facilities where the sex offenders are confined. In the most recently ended legislative session, lawmakers asked the state health department to study ways to set up a civil commitment system for Louisiana's violent sex offenders. A study panel will make recommendations to the Legislature within six months. Health and Hospitals Secretary Alan Levine supports the proposed law and pushed for the study, saying involuntary mental-health treatment for violent sex offenders could keep some from becoming repeat offenders. "When they're in prison, they're not necessarily receiving any treatment. They serve their time and then they're released into society, but the underlying condition that caused them to offend doesn't go away," Levine said. At least 16 states have similar laws, the first enacted in Wisconsin in 1989, according to the National Conference of State Legislatures. The laws tend to require a judge or jury to find someone either "sexually violent" or "sexually dangerous," terms that are defined in the laws. Such a proposal in Louisiana is expected to get a warm reception from many lawmakers, who have toughened laws against sex offenders in recent years, and from Gov. Bobby Jindal, who repeatedly refers to sex offenders as "monsters." Last month, Jindal signed a new law that allows judges to order chemical castration of sex offenders, a bill that received overwhelming approval from the Legislature. But some civil rights organizations,

mental-health providers and officials who represent crime victims say involuntary mental-health treatment of violent sex offenders is the wrong way to deal with the problem of sex crimes. In a policy statement, the National Association of State Mental Health Program Directors said the laws do not represent good policy. The

Virginia-based organization said the laws in many instances provide further punishment, rather than treatment, and can undermine states' abilities to give mental-health care to people who want treatment by siphoning money to the housing and care of sex offenders. "It's kind of a dangerous concept, and it's a much more straightforward one to have tough sentences on sex offenders," said Michael Rushford, president of the Criminal Justice Legal Foundation, a nonprofit victims' rights organization based in Sacramento, Calif. Rushford said states should set long prison sentences for sex offenders, rather than constructing other "backup" ways to hold onto offenders leaving jail that make sex offenders serve additional sentences without trials. Supporters of the involuntary confinement laws point to a 1997 U.S. Supreme Court ruling that upheld Kansas' civil commitment law for violent sex offenders, enacted in 1994. The ruling encouraged other states to create similar statutes. "While our parole system is a good one, we want all available tools to be at our disposal as we seek to avoid re-offense and protect our children and families," Louisiana Corrections Secretary Jimmy LeBlanc said in a statement. Levine said Louisiana's proposal, if approved by lawmakers next year, would target offenders deemed likely to commit another crime. Before they are released

from prison, a panel of mental-health experts and corrections officials would review their history and determine whether to ask a judge to force them into mental-health treatment upon release. Where they would be confined, how much it would cost and which sex offenders would be targeted are all the subject of the study, Levine said, though he added that the percentage of sex offenders likely to face further confinement would be small. He said he thinks the confinements should be indefinite in some cases. "Every time I read about a rape or child molestation, and I see that the person is a repeat

offender, it makes me think there's more we've got to be doing," Levine said. "Protecting society goes beyond locking up criminals. This is designed to make sure people get treatment."

On the Internet: House Concurrent Resolution 155 can be found at [www.legis.la.state.us](http://www.legis.la.state.us)

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## DRUG LIFERS STILL WAITING FOR FAIR SENTENCE UNDER NEW LAWS

Some Louisiana drug lifers waited decades for legislators to pass 2001's Act 403, which changed Louisiana's harsh sentencing guidelines to be more in line with other states and federal guidelines. Since 2001, the judges have had the discretion to sentence heroin offenders from 5 to 50 years instead of mandatory life. This new law was not made retroactive, but the Risk Review Panel was created by Act 403 in 2002 and heroin lifers were made eligible in 2004 after serving 20 years, and then reduced to 7 years in 2005. The panel was charged with reviewing the cases of non-violent offenders to assess how much danger they would pose to society if released. There are three separate Risk Review Panels (each comprised of the DOC Secretary or his designee, a psychologist, the warden or his deputy at the inmate's facility, a retired judge and a probation and parole officer with 10 years experience) which can recommend release from prison to the Pardon and Parole Boards for eligible offenders.

In 2006, no eligible drug lifers had been released by the Risk Review Panel, but the legislators passed RS 15:308, which made the more lenient penalty provisions of ACT 403 retroactive.

Melvin Smith of Orleans and Wesley Dick of St. Tammany filed motions to their respective courts which Calvin Johnson and Patricia Hedges granted. Smith was re-sentenced to 28 years, but D.A. Jordan requested he be held at the sheriff's house of detention pending the high court's ruling. Dick was re-sentenced to 10 years and released, prior to a hold being placed on him after Judge Hedges considered his pre-sentence investigation, the aggravating and mitigating circumstances, the small amount of drugs, his criminal and work history, his education prior to and during incarceration, his prison conduct report and his health. He immediately checked in with his parole officer, obtained a driver's license, a cell phone, financed a \$20,000 pickup truck and began working in the field of weld inspection which he had done for 20 years previously. Dick had been out of work due to kidney failure in 1998 while supervising testing crews in an Aruba refinery. This was one year prior to his 1999 arrest for going to N.O. to buy a small amount of drugs for his friend turned confidential informant.

Dick thought he had finally received justice and would be able to move forward, only to find out the D.A.s had appealed their cases. District Attorney's Jordan and Reed got different results from the circuit courts affirming Smith's new sentence and reversing Dick's. Dick remained free and working pending the Louisiana Supreme Court ruling.

A short time after arguments at the Louisiana Supreme Court in October, 2006, at which time Justice Johnson questioned the state as to how many people had been released by the Risk Review process, several drug lifers were finally released including Melvin Smith.

On January 26, 2007 the Louisiana Supreme Court rendered its 6-1 decision ruling that the judges didn't have the authority to re-sentence heroin lifers. Justice Knolls majority opinion said the legislature did not intend, legislate or give judges the power to commute a life sentence after it had become final. That power is vested in the Executive Branch, the only avenue of relief being through the Risk Review Panel.

A few days earlier, Dick had left a turnaround job in Texas to attend one of his court status hearings, at which time he was docketed to return on May 31, 2007. After the ruling, he continued to work turnarounds in Texas and California with the permission of the court and his parole officer.

On May 31<sup>st</sup>, he presented himself at court for re-sentencing and to begin the Risk Review process. After 11 months of freedom, at which time he bonded with and spoiled his 9 and 12 year-old daughters, paid taxes, child support, financed a truck and travel trailer, didn't drink or do drugs and abided by all parole stipulations, he was ready to get this all behind him.

But Judge Hedges apologetically re-sentenced him to life without benefits while disagreeing with the high court's rulings, acknowledged his being a model citizen while released and recommended that the Risk Review Panel immediately review his case.

Over one year later Dick and 30 plus other heroin lifers, as well as numerous eligible habitual offenders serving life, are still waiting to receive the benefits made retroactive in 2006. It appears that the new administration has finally begun to get the process started, but nobody knows when any of the deserving eligible offenders might actually be released.

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When will these non-violent elderly offenders get a chance, through the Risk Review Panel to have their now illegal sentences corrected in accordance with the new law that was made retroactive? The legislative intent was clear in 2001 when the harsh sentencing guidelines were reduced and in 2006 when RS 15:308 made the reduced sentences retroactive, stating in RS 15:308 B: *"In the interest of fairness in sentencing, the legislature hereby further declares that the more lenient penalty provisions of ACT 403 of 2001 ... shall apply to the class of persons who were sentenced ... prior to June 15, 2001 ..."*

One has to ask, where is the fairness that shall apply and when might these eligible offenders get a hearing? Why are the taxpayers paying Risk Review to deny these eligible elderly offenders due process of a hearing, the retroactive benefits of the new law and why are they paying millions to keep these low risk offenders locked up while the higher risk younger offenders have been getting the benefit of the more lenient penalties through the courts since 2001? Are the taxpayers getting their money's worth? Are the offenders sentenced prior to 2001 being treated fairly?

The Risk Review Panel, which is comprised of qualified, knowledgeable, professional individuals, could be a good thing for all lifers and the taxpayers if politics would allow them to do their jobs.

## **What Prisoners Should Know About Social Security**

<http://www.socialsecurity.gov/pubs/10133.html>

Social Security and Supplemental Security Income (SSI) payments generally are not payable for months that you are confined to a jail, prison or certain other public institutions for commission of a crime. And, you are not eligible for Social Security or SSI payments automatically when you are released.

### **Who can get Social Security benefits?**

Social Security disability benefits can be paid to people who have recently worked and paid Social Security taxes and are unable to work because of a serious medical condition that is expected to last at least a year or result in death. The fact that a person is a recent parolee or is unemployed does not qualify as a disability.

Social Security retirement benefits can be paid to people who are 62 or older. Generally, you must have worked and paid Social Security taxes for 10 years to be eligible. Social Security benefits are not paid for the months you have been sentenced to a jail, prison or correctional facility or confined to certain public institutions for committing a crime. And, no benefits can be paid for any month in which you violate a condition of your probation or parole. Although you cannot receive monthly Social Security benefit payments while you are confined, your spouse or children can be paid benefits on your record if they are eligible. And if you have worked and paid Social Security taxes, survivors benefits also may be paid to certain family members if you die.

### **Who can get SSI payments?**

SSI can be paid to people who are 65 or older, or who are blind or disabled and whose income and

resources are below certain limits. No benefits are payable for any month in which you reside in a jail, prison or certain other public institutions. Also, you cannot receive an SSI payment for any month in which you violate a condition of your probation or parole.

When you are ready to be released , If your Social Security or SSI benefits were suspended because you were incarcerated, you can request that they be started again when you are released from prison. You will need to contact Social Security and provide a copy of your release documents before we can take action on your request. If you were not receiving benefits prior to

your incarceration or your benefits were terminated, you will need to file a new application for benefits if you think you may be eligible. You should contact Social Security for more information about filing a claim for benefits. We will require proof of your release from prison, in addition to a new application and other documents.

If your institution has a prerelease agreement with the local Social Security office, it will notify us if you are likely to meet the requirements for SSI or Social Security benefits. We can then process an application several months before your anticipated release so that benefits can start as soon as possible after your release. You should contact institutional or social service staff to find out if the institution has a prerelease agreement with Social Security. If there is no agreement, when you know your anticipated release date, contact Social Security to apply for benefits if you think you may be eligible. Then we can take prompt action on your

application.  
Contacting Social Security

Our website is a valuable resource for information about all of Social Security's programs. There are a number of things you can do online. In addition to using our website, you can call us toll-free at 1-800-772-1213. We can answer specific questions from 7 a.m. to 7 p.m., Monday through Friday. We can provide information by automated phone service 24 hours a day. (You can use our automated response system to tell us a new address or request a replacement Medicare card.) If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778.

We treat all calls confidentially. We also want to make sure you receive accurate and courteous service. That is why we have a second Social Security representative monitor some telephone calls

**LOUISIANA CURE**

Citizens United for Rehabilitation of Errants  
P.O. Box 181  
Baton Rouge, LA 70821

**RETURN SERVICE REQUESTED**

9/5/2009

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## Lets Keep the Ball Rolling

